

1
2
3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 PATRICIA and WILLIAM POTTER,

7 Plaintiffs,

8 v.

9 AMERICAN FAMILY INSURANCE,

10 Defendant.

CASE NO. C16-5406 BHS

ORDER GRANTING
DEFENDANT'S MOTION TO
DISMISS

11 This matter comes before the Court on American Family Insurance's ("American
12 Family") motion to dismiss claims regarding *Olympic Steamship* fees (Dkt. 55).

13 On July 5, 2017, American Family filed the instant motion. *Id.* On July 7, 2017,
14 Plaintiffs Patricia and William Potter ("Potters") responded conceding the merits of the
15 motion and requesting terms for having to respond. Dkt. 57. On July 28, 2017,
16 American Family replied. Dkt. 60.

17 Regarding the merits, the Court grants the motion because the issue is not
18 contested.

19 Regarding the frivolousness of the motion, the Court agrees with Potters that the
20 issue could have been resolved in a five-minute phone call instead of a fully briefed third
21 dispositive motion. The Court also agrees with the Potters that this is not the first time
22 American Family's counsel has been admonished by this Court or the Ninth Circuit for

1 failing to resolve issues “through common courtesies, rather than taxing the resources of
2 the federal judiciary.” *Parker v. Allstate Ins. Co.*, 2012 WL 1065531, *1 (9th Cir. 2012).
3 The Court, however, declines to award fees for this frivolous motion because the Potters
4 did not need to respond.

5 Therefore, the Court **GRANTS** American Family’s motion to dismiss (Dkt. 55).

6 **IT IS SO ORDERED.**

7 Dated this 7th day of August, 2017.

8
9 

10 BENJAMIN H. SETTLE
United States District Judge